

## General conditions of sale for SIPRO STAHL SCHWEIZ for the EU area

SIPRO Siderprodukte AG / LUCCHINI Siderprodukte AG / SIPRO BELTRAME AG / VENETE Siderprodukte AG / Donalam Siderprodukte AG

**Note: This is a translation of the German version. In cases of uncertainty or conflict, the German version shall prevail.**

### I. Application, offers

1. These general selling conditions shall apply to all our present and future contracts with companies, legal entities of the public law and other special public law funds concerning shipments and other services, including the shipment of non-fungible objects. In addition, the conditions of the assigned delivering plant shall apply. The purchase conditions of the buyer are not acknowledged, even if we don't expressly disagree with them after receipt.
2. Our offers are not binding. Verbal agreements, promises, assurances and guarantees by our employees in relation to the conclusion of a contract will become binding only through written confirmation from our company. The written form is also valid through the transmission of faxes and e-mails.
3. When in doubt, the current INCOTERMS are relevant for the interpretation of trade clauses.

### II. Prices

1. Unless otherwise agreed, the prices and conditions – which correspond to the current valid price list at the moment of the conclusion of contract – are applicable. The merchandise is calculated "gross for net".
2. Should there be, later than four weeks after conclusion of the contract, a fluctuation of charges or other outside costs contained in the price agreed, or if new charges are generated, we are entitled to a change of price to the corresponding extent.

### III Payment and billing

1. Unless otherwise agreed or stated in our invoices, the purchase price is due 30 days after shipment ex works without deduction of cash discount, to be paid in a manner that the amount is at our disposal on the due date. The buyer carries the costs of the payment transactions. The buyer shall only be entitled to a right of retention and a right of setoff, if their counterclaims become undisputed or non-appealable.
2. Upon exceeding the allowed period for payment or upon default, we will calculate interest in the amount of 8 percentage-points above the Base Interest Rate, unless higher interest rates are arranged. The enforcement of other damage caused by default may occur.
3. The buyer is automatically in default at the latest 10 days after the due date of our claim, without the need of a reminder.
4. If – after conclusion of the contract – it is recognizable that our pecuniary claim is endangered by the lack of solvency of the buyer, or the buyer will be in default with a considerable amount owing, or if it is shown that – because of extraneous circumstances – the buyer's solvency will be considerably deteriorated after the conclusion of the contract, we are entitled to the rights according to § 321 BGB (Civil Code). In that case, all outstanding claims from the current business relationship with the buyer will become due.
5. An arranged (cash) discount always refers only to the invoice value and presupposes the complete settlement of all liabilities of the buyer at the moment of deduction of the cash discounts. Unless otherwise agreed, the discount periods begin from the invoice date.

### IV. Execution of delivery, delivery times and dates

1. Our supply obligation is subject to correct and timely delivery from our suppliers ("self-supply") and, in case of import businesses, it is additionally subject to the receipt of control documents and import licences, unless, the incorrect or delayed supply is due to our mistake.
2. Statements regarding delivery periods are approximate. The delivery times begin with the date of our confirmation of the order and are only valid on the condition that all details of the order have been clarified and all obligations of the buyer have been fulfilled punctually, e.g. procurement of all official certifications of the authorities, issuing of letters of credit and guarantees or execution of down payments.
3. Regarding the adherence to the delivery times and dates, the moment of dispatch from the plant or warehouse is relevant. They are regarded as fulfilled with the notice of the readiness for dispatch, even if the merchandise, through no fault of ours, cannot be dispatched in time.
4. In case of default in delivery, the buyer can grant us an appropriate grace period. The buyer can withdraw from the contract after the expiring of the grace period, if the requested results have not been produced (i.e. if the materials ordered have not been received), as far as the unfulfilled part of the contract is concerned. In such cases, damage claims are covered in section XI of the present selling conditions.

### V. Right to retain ownership

1. All delivered merchandise remains our property (reserved merchandise) until all claims, especially the respective balance claims due to us in the framework of our business relationship (overall retention of ownership), are fulfilled. This is also applicable to subsequent and conditional claims, for example from bills (bank drafts) for approval, and as well, if payments are effected for significant claims. This overall retention of ownership expires completely with the settlement of all claims open at the moment of payment which are contained in this overall retention of ownership.
2. The processing of the reserved merchandise takes place, for us as producer, without our commitment, in the sense of § 950 BGB (Civil Code). The processed merchandise is regarded as reserved merchandise in the sense of point No. 1. In case of processing, combination and mixture of the reserved merchandise with other merchandise through the buyer, we are entitled to a co-ownership of the new merchandise, in proportion to the invoice value of the reserved merchandise to the invoice value of the other dispatched merchandise. If our ownership based on combination or mixture expires, the buyer immediately transfers to us their ownership rights concerning the new merchandise volume according to the invoice value of the reserved merchandise and will store it free of charge for us. Our co-ownership rights are regarded as reserved merchandise in the sense of point No. 1.
3. Provided that the claims from the resale covered in N° 4 through 6 will be transferred to us, the buyer is allowed to sell the reserved merchandise, but only in the ordinary course of business and with their normal terms and conditions, and as long as they are not in default. The buyer is not entitled to use the reserved merchandise otherwise.
4. The claims from the resale of the reserved merchandise are to be transferred immediately to us with all securities which the buyer acquires for the claim. These securities serve as assurance in the same extent as the reserved merchandise. If the buyer re-sells the reserved merchandise together with other merchandise not sold by us, the claim from the resale is transferred to us in proportion to the invoice value of the reserved merchandise to the invoice value of the other sold merchandise. In the case of sales of merchandise, of which we have co-ownership shares according to No. 2, the portion corresponding to our co-ownership share will be transferred to us.
5. The buyer is entitled to collect the claims from the resale. This collecting authorization expires by revocation from our side or in the case of default in payment, non-payment of a bill (bank draft) or a request for the opening of insolvency proceedings. We will only make use of our power of revocation when, after the conclusion of the contract, it is recognizable that our pecuniary claim – from this or other contracts with the buyer – is endangered by lack of solvency of the buyer. By our request, the buyer is required to inform their purchasers immediately regarding the transfer to us. The buyer shall then send us all the documents required for the collection.
6. The buyer must inform us immediately if there are distraints (attachments) or other limitations by third parties. The buyer shall support all costs that may occur for the annulment of the attachment or the return transportation of the reserved merchandise, so long as the costs are not replaced by third parties.
7. If the buyer is in default or if they do not honour a bill (bank draft) by the due date, we are entitled to repossess (take back) the reserved merchandise and, to this end, to eventually enter into the plant of the buyer and to sell the reserved merchandise at the best-possible price, for which the buyer is responsible for the difference between our selling price and the original purchase price. The same shall be applicable when, after the conclusion of the contract, it is recognizable that our pecuniary claim – from this or other contracts with the buyer – is endangered by lack of solvency of the buyer. The repossession is not a withdrawal from the contract. The provisions of the Insolvency Act shall not be affected by this.
8. If the invoice value of the existing securities exceeds the secured claims including any additional claims (interest, costs or similar) by more than 50 %, we are required – by request of the buyer – to release securities of our choice in this regard.

## **VI. (Steel) grades, dimensions and weights**

1. The grades, types and dimensions of the merchandise are determined by the agreed EU- or DIN-standards upon conclusion of the contract, or, in absence of said agreed standards, in accordance with the current EU-/DIN-standards applicable at the moment of the conclusion of the contract, or in absence of any standards, according to the usage and commercial practice. References to standards and similar regulations, to inspection certificates or similar documents of the plant as well as statements about grades, types, dimensions, weights and applications of the merchandise are not assurances or guarantees, nor declarations of conformity or corresponding identification marks like CE and GS.

2. Regarding the weights, the weighing performed by us or our supplier is relevant. The proof of weight is given by presentation of the weight card. As far as legally allowable, the weights can be determined in accordance with the standard without weighing. We are entitled to determine the weight without weighing according to the standard (theoretically), plus 2 ½ % (commercial weight). The number of pieces, bundles, etc., stated in the dispatch advice, is not binding for merchandise calculated in accordance with the weight. If an ordinary single weighing has not been performed, the total weight of the delivery shall be valid. Arithmetical differences to single weights shall be distributed over those proportionally.

## **VII. Acceptance of deliveries**

1. If the final inspection for acceptance of the delivery is arranged, it can only take place at the delivering plant or at our warehouse immediately after the readiness for the final inspection is confirmed. The buyer carries the personal inspection costs, however, the factual inspection costs will be charged to them according to our price list or the price list of the delivering plant.

2. If the final inspection for acceptance doesn't take place in a timely manner or is not completed through no fault of our own, we are entitled to dispatch the merchandise without acceptance or to store it at the expense and risk of the buyer and to charge the stored merchandise to them.

## **VIII. Shipment, passing of risks, packing, partial delivery**

1. We determine the route, the means of transportation, the forwarding agent and the carrier.

2. The merchandise announced ready for dispatch in conformity with the contract, must be called in by the buyer immediately, otherwise we are entitled – after a reminder – to send the respective merchandise at the expense and risk of the buyer if we choose, or to store it at our discretion and to charge it immediately.

3. If the transportation on the foreseen route or to the foreseen destination or in the foreseen time is impossible or considerably impeded through no fault of our own, we are entitled to dispatch the respective material on another route or to another destination; the incurred additional costs will be supported by the buyer. The buyer will be given a chance to raise any objections before we proceed this way.

4. Upon release of the merchandise to a forwarding agent or carrier, or at the latest by the leaving of the warehouse or the delivering plant, the risk passes to the buyer, and this includes the risk of confiscation or seizure of the merchandise. This shall be applicable for all businesses, as well as for free deliveries. We provide insurance only on request and at the expense of the buyer. The obligation and costs for the unloading are on the buyer's account.

5. The merchandise is (normally) delivered unpacked and unprotected against rust. We will ship the merchandise packed, if it is standard commercial practice. We provide the packing, protection and/or transportation aids according to our experience at the expense of the buyer.

6. We are entitled to make partial deliveries to a reasonable extent. Furthermore, we are entitled to remain under or over the arranged quantities to be delivered by a tolerance of 10 %.

## **IX. Call-in orders, continuous deliveries**

1. The call-in orders obligate the buyer to pick up or have delivered the total quantity arranged for the call-in order. If no specific call-in dates have been arranged, the whole quantity shall be taken over within the period fixed in the contract.

## **X. Liability for defects in quality**

1. Quality defects of the merchandise must be reported in writing immediately, or at the latest 8 days after the delivery. Defects which cannot be detected even by the most careful examination within this period, shall be reported in writing – by immediate suspension of the processing – immediately after the discovery, or at the latest before termination of the agreed or legal period of limitation.

2. In case of justified and timely notice of defects, we can remove the defect in the manner we choose or deliver new material without defects (subsequent fulfillment). In case of nonsuccess or refusal of the subsequent fulfillment, the buyer can rescind from the contract after the expiring of an appropriate grace period, if we haven't produced the requested results, or then reduce the purchase price. If the defect is not considerable or if the merchandise is already sold, processed or reshaped, the buyer is only entitled to claim the reduction of the purchase price.

3. We assume expenditures in relation to the subsequent fulfillment only if – in the single case – they are proportionate to the purchase price of the merchandise, however, in no case, over 150 % of the purchase price.

We shall assume further expenditures, e.g. for installation and removal of the defective material, only according to the instructions of section XI of the present conditions.

4. After the execution of an agreed final inspection for acceptance by the buyer, the complaint of the defects, which could have been detected (but were not) during the arranged final inspection, is excluded. If the buyer does not detect a defect because of negligence, they can assert the rights concerning this defect only if we withheld the defect deceitfully or if we took over a guarantee for the state of the material.

5. If the buyer does not immediately give us the opportunity to verify the material is defective, and, above all, if they don't place the criticized merchandise or samples of it immediately at our disposal, so that we can examine it, all rights regarding the material defect are no longer applicable.

6. In case of merchandise that was sold as downgraded material, the buyer is not entitled to any rights respecting the stated downgrading reasons and such defect types, with which they have to usually reckon. In case of sale of Ila-merchandise, our liability for material defects is excluded.

## **XI. General restriction of liability and limitation of actions**

1. Only in cases of intent and gross negligence – restricted to the foreseeable and contract-typical damage – we are liable for violation of contractual and non-contractual obligations, above all owing to impossibility, default, fault when the conclusion of a contract is under way or as a result of a forbidden act. This is also valid for our senior executives and other employees or agents. As for the remaining cases, our liability is excluded, even for defects and consequential damages of defects.

2. These limitations are not valid in case of culpable violation of essential contractual obligations – as far as the fulfillment of the contract purpose is endangered – i.e. damages of life, the body and health caused by own fault, and even then not, if we assumed the guarantee for the state of the sold material. This shall also be applicable in cases of compulsory liability according to the Product Liability Act. The rules about the burden of proof shall not be affected by this.

3. Unless otherwise agreed, contractual claims – that may occur to the buyer as a result of and in relation to the delivery of the merchandise – become statute-barred 1 year after delivery of the merchandise. This period shall also apply to such merchandise, which, according to its usual application is utilized for the construction of buildings and has caused structural defects, unless this application was arranged in writing. Our liability from intentional and gross negligent breaches of duty, culpable-caused damages of the life, body and health, as well as the limitation of claims under a right of recourse according to §§478, 479 BGB (Civil Code), shall not be affected by this.

## **XII. Place of performance, place of jurisdiction, applicable law**

1. For deliveries ex works, the place of performance is the delivering plant. For the remaining deliveries, the place of performance is the place of delivery fixed in the contract. The seat of our company shall be the place of jurisdiction, or if we choose, the buyer's seat.

2. In addition to the present conditions, the following shall be applicable for all legal relationships between us and the buyer: particularly the non-standardized German law of the BGB (Civil Code) and HGB (Commercial Code). The regulations of the Vienna UN-Convention of April 11, 1980, relating to a uniform law on the international sale of goods, do not apply.

## **XIII. Applicable version**

When in doubt, the German version of the present general conditions of sale shall prevail.